

UNITED STATES DISTRICT COURT

District of Massachusetts (Western Division)

DIRECTV, INC.

Plaintiff,

vs.

Joe Skarbek

Defendant

) Case No.: **04-30218-KPN**

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) **JOINT STATEMENT OF THE PARTIES**
) **PURSUANT TO LOCAL RULE 16.1(D)**

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Now comes the Plaintiff, DIRECTV, and the Defendant, Joe Skarbek and pursuant to Local Rule 16.1(D), do hereby submit the following Joint Statement to this Honorable Court.

I. PARTIES' CONFERENCE

John M. McLaughlin, Counsel for the Plaintiff and George F. Kelly, Counsel for the Defendant, do hereby certify that they have teleconferenced to discuss the issues required pursuant to this rule on March 1, 2005.

II. SETTLEMENT PROPOSAL

Counsel for the Defendant, does hereby certify that he received a Settlement Proposal from the Plaintiff accompanying the Joint Statement, pursuant to Local rule 16.1(C). Counsel for the Plaintiff does hereby certify that he presented said Settlement Proposal to the Defendant. At this time, the Defendant is not in a position to accept the Plaintiff's demand for settlement of the above matter.

III. MEDIATION

Prior to the initiation of the first phase of Discovery, the Parties agree to submit this dispute to non-binding mediation before the Senior Judge or Magistrate pursuant to Local Rule 16.4(c)(4). Thereafter should mediation be unsuccessful at resolving this matter this Court may set a date as the initiation date for Discovery ("Post Mediation Discover Initiation Date") said date being two weeks after the actual in-Court mediation.

IV. JOINT STATEMENT AS TO DISCOVERY/MOTIONS

The following represents the Agreement of the Parties and is submitted to the Court such that the Court can utilize same in devising the Scheduling Order.

1. Discovery

- a. The Parties propose that all discovery be completed by June 10, 2005.
- b. The depositions of non-expert witnesses shall not exceed seven (7) hours per witness unless leave of the Court has been obtained or a written stipulation of the parties has been entered into to exceed said seven (7) hour limitation. The parties may also utilize subpoena duces tecum in conjunction with these non-expert depositions.
- c. The Parties propose that the written discovery shall include, but not limited to, interrogatories, requests for production, and requests for admissions. Pursuant to Fed. R. Civ. P. 33, interrogatories shall be limited to 25 in number, including sub-parts. Pursuant to Fed. R. Civ. P. 34, each person shall have the opportunity to submit two sets of requests for production of documents and things to the other party.

- d. The plaintiff shall disclose to Defendant, pursuant to Rule 26(a)(2)(B), all experts and expert reports by August 1, 2005. The Defendant shall disclose to Plaintiff, pursuant to Rule 26(a)(2)(B), all experts and expert reports August 15, 2005.
- e. Whenever any discovery controversy arises to the point where motions are filed, all deadline dates as set forth above with reference to discovery shall be automatically extended to include the time necessary for the determination or settlement of the discovery dispute.

2. Motions

- A. All motions filed under Fed. R. Civ. P. 12, 13, 14, and 15 shall be filed no later than September 30, 2005. All motions pursuant to Fed. R. Civ. P. 56 shall be filed no later than October 14, 2005.

V. CERTIFICATION

Counsel for the Plaintiff counsel for the Defendant and the Parties certify by their signatures below and all pursuant to Local Rule 16.1(D) that each Party and said Parties Counsel have conferred as to:

- 1. Establishing a budget for the cost of conducting the full course and various alternative courses of litigation; and,
- 2. To consider the resolution of litigation to the use of alternative dispute resolution programs.

VI. CONSENT TO APPEAR BEFORE A MAGISTRATE

The Plaintiff and Defendant are amenable to Trial before a Magistrate.

Respectfully Submitted for the Plaintiff,
By Its Attorney,

3/2/05

Date

/s/ John M. McLaughlin

John M. McLaughlin

Green, Miles, Lipton & Fitz-Gibbon

77 Pleasant Street

P.O. Box 210

Northampton, MA 01061-0210

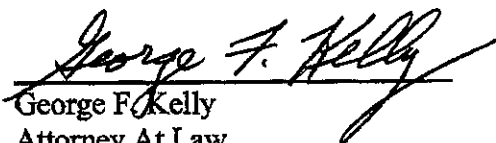
Telephone: (413) 586-0865

BBO No. 556328



John Green, for Plaintiff
Senior Staff Counsel

Respectfully Submitted for the Defendant By His
Attorney,

A handwritten signature in cursive script, reading "George F. Kelly", written over a horizontal line.

George F. Kelly
Attorney At Law
930 Main Street
Springfield, MA 01103

The Defendant,


Joe Skarbek